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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,905	12/14/2001	Michael Von der Geest	3107-237	9583
8933	7590	06/16/2008		
DUANE MORRIS, LLP IP DEPARTMENT 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103-4196			EXAMINER GEBREMICHAEL, BRUK A	
			ART UNIT	PAPER NUMBER
			3714	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/016,905

**Applicant(s)**

VON DER GEEST ET AL.

**Examiner**

Benjamin W. Lee

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8, 10, 12-15, 17-22, 24-29, 31-40, 42-52 and 70-75 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10, 12-15, 17-22, 24-29, 31-40, 42-52 and 70-75 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The declaration filed on 10/19/2007 and 05/15/2008 under 37 CFR 1.131 is sufficient to overcome the Boulton (US 6,766,319 B1) reference. Accordingly, prosecution of this application has been reopened. Claims 1-8, 10, 12-15, 17-22, 24-29, 31-40, 42-52, and 70-75 are pending in this application.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-8, 10, 12-15, 17-22, 24, 36-40, 42-47, 70-72, and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boulton et al. (US 5,566,291, hereinafter Boulton) in view of Sander et al. (US 2001/0031451, hereinafter Sander).

Re claims 1 and 36: Boulton discloses a method of assisting in development of an environment, comprising the steps of receiving evaluation data for the environment received from at least one individual participating in the environment, the evaluation data representing impressions of the individual regarding the environment (see Figs. 3a-7; col. 4, lines 5-18), providing model data to an individual that is responsible at least in part for said environment, the model data representing one or more dimensions of the environment, the model data developed at least in part from the evaluation data, each of said one or more dimensions being associated with at least one characteristic of the individual responsible for the environment (see Figs. 16-19 and 30; col. 10, lines 20-62; col. 27, line 32 - col. 34, line 30), and receiving a selection of at least one of the one or more dimensions of the environment received from the individual responsible for the environment (see col. 27, line 66 - col. 28, line 20)). The evaluation data and selection of dimensions is inherently received by a computer processor and a computer program, since the system is implemented a networked computer system (see Fig. 1; col. 7, line 48 - col. 8, line 11).

However, Boulton fails to teach providing the individual responsible for the environment an action plan for improving at least one characteristic associated with the selected dimension.

Sander teaches a method for interactively monitoring and changing the behavior, attitude, or educational state of an individual of an organization. The system surveys the user's knowledge of a topic and provides an action plan to the user to improve their knowledge (see Fig. 7; ¶ [0169]).

Therefore, in view of Sander, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add the feature of providing an action plan to the

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method and system of Boulton in order to improve the performance of an individual in a selected area.

Re claims 2 and 37: The teachings of Boulton as modified by Sander as applied to claims 1 and 36 above have been discussed. Boulton further discloses receiving evaluation data for the environment from the individual that is responsible at least in part for the environment, the evaluation data representing an impression of the individual regarding the environment (see col. 11, lines 45-55).

Re claims 3 and 38: The teachings of Boulton as modified by Sander as applied to claims 2 and 37 above have been discussed. Boulton further discloses the environment is a classroom teaching environment, the at least one individual participating in the environment includes a first plurality of students and the individual responsible for the environment is a classroom teacher (see col. 11, lines 7-25).

Re claims 17 and 45: The teachings of Boulton as modified by Sander as applied to claims 2 and 37 above have been discussed. Boulton further discloses the environment is a school environment (see col. 11, lines 7-15) and the system may also be used in between workers/employees and administrators (see col. 11, lines 15-25).

However, Boulton fails to explicitly disclose the one individual participating in the environment includes a first plurality of employees within the school environment and the individual responsible for the environment is a head teacher.

OFFICIAL NOTICE is taken that the relationship between school employees and a head teacher is a specific type of employee/administrator relationship and that it is old and well known in the art for school employees to give feedback to administrators. As suggested by Boulton, administrators in all types of environments find feedback to be a valuable instrument for improving overall conditions and performance.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have school employees provide feedback to administrators, such as a head teacher, in order to give the administrators data about the school environment so that they may make improvements.

Re claims 4 and 18: The teachings of Boulton as modified by Sander as applied to claims 3 and 17 above have been discussed. Boulton further discloses the step of receiving from the classroom teacher a designation of the first plurality of students participating in the classroom teaching environment, the first plurality of students being designated to provide the evaluation data (see col. 27, line 44 - col. 28, line 20).

Re claims 8, 15, and 22: The teachings of Boulton as modified by Sander as applied to claims 1, 3, and 17 above have been discussed. Boulton further discloses receiving from a second plurality of students/employees reevaluation data for the selected classroom teaching/school environment, the reevaluation data representing impressions of the second plurality of students/employees regarding the classroom teaching/school environment at a time after the evaluation data is received from the first plurality of students/employees and providing

second model data to the classroom teacher/head teacher, the second model data representing the one or more dimensions of the classroom teaching/school environment, the second model data developed at least in part from the reevaluation data, each of the one or more dimensions being associated with at least one characteristic of the classroom teacher/head teacher, the at least one characteristic known to effect a respective dimension. The feedback may be filtered by date and time (see col. 32, line 49 - col. 33, line 6).

Re claims 10 and 24: The teachings of Boulton as modified by Sander as applied to claims 8 and 22 above have been discussed. Although Boulton does not explicitly disclose the second plurality of student/employees includes one or more students/employees from the first plurality of students/employees, it would have been obvious to do so since the system has the ability to filter by groups and it would have been obvious to one of ordinary skill in the art to view feedback trends over time using the same group of people because one of ordinary skill in the art would have realized that viewing the feedback of the same group of people instead of comparing different groups helps to eliminate a variance in results that is not necessarily correlated to teacher's/head teacher's performance.

Re claims 12 and 42: The teachings of Boulton as modified by Sander as applied to claims 3 and 38 above have been discussed. Boulton further discloses a plurality of classroom teachers provide evaluation data for a plurality of classroom environments (i.e. there may be a plurality of reviewers and users may provide feedback on a variety of issues, see col. 11, lines 7-25), the method further comprising receiving from the plurality of classroom teachers priority

data for each of the one or more dimensions, the priority data identifying a respective priority level for each of the one or more dimensions (i.e. the reviewer may filter results and choose how the information is presented, see col. 27, line 44 - col. 29, line 61).

Re claims 5-7, 13, 14, 19-21, 39, 40, 43, 44, 46, 47, and 75: The teachings of Boulton as modified by Sander as applied to claims 1, 2, 3, 36, 37, and 38 above have been discussed.

However, Boulton fails to disclose the evaluation data received from students/employees/teachers identify a current perception of the current state of the environment/classroom and an ideal state of the environment/classroom, the model data identifies differences between the perceptions and ideals of students, teachers, and the community/individuals responsible for the environment, individuals participating in the environment, and the community, and model data is presented graphically.

Official Notice was taken in the previous Office Action dated 04/20/2007 which stated “both the concept and advantages of identifying both a current perception and ideal states are well known and expected in the art. Many assessments require input of both perceived and ideal states and use the gap between the two in order to develop plans that address areas with the largest gaps. Furthermore, it is well known to compare the views of teachers, students, and the community and to present data graphically.” Since the applicant failed to traverse the official notice in the response filed 10/19/2007, the official noticed facts taken in the rejection dated 04/20/2007 are now considered admitted prior art. See MPEP § 2144.03(C).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add the feature of including ideal states in the evaluation data in order to



generate action plans focused on either achieving the personal goals of an individual or improving public perception of a characteristic of an individual.

Re claims 70-72: The teachings of Boulton as modified by Sander as applied to claims 1 and 2 above have been discussed. Boulton further discloses that the individual responsible for the environment also provides feedback about the environment (see col. 11, lines 45-55).

5. Claims 25-29, 31-35, 48-52, 73, and 74 rejected under 35 U.S.C. 103(a) as being unpatentable over Boulton as applied to claims 2, 17, 45, and 71 above, and further in view of Morrel-Samuels (US 5,743,742)

The teachings of Boulton as modified by Sander as applied to claims 2, 17, 45, and 71 above have been discussed.

However, the teachings of Boulton as modified by Sander fail to disclose the environmental aspect assessed by employees/individuals participating in the environment is the leadership of a head teacher/individual responsible for the environment.

Morrel-Samuels teaches a system for measuring leadership effectiveness. The assessment includes several leadership styles (see col. 1, line 65 - col. 2, line 4) and characteristics associated with the leadership styles (see Fig. 1B).

Therefore, in view of Morrel-Samuels, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add leadership assessment to the method and system of Boulton as modified by Sander et al. in order to assist administrators to identify their

strengths and weaknesses as leaders so that the administrators may improve their leadership abilities.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-8, 10, 12-15, 17-22, 24-29, 31-40, 42-52, and 70-75 have been considered but are moot in view of the new ground(s) of rejection. The declaration and supplemental declaration under 37 C.F.R. 1.131 has overcome the prior cited Might reference. However, new grounds of rejection using newly found prior art have been applied.

***Conclusion***

7. This action is made **NON-FINAL** as prosecution of the case has been reopened in view of the applicant's declaration and supplemental declaration under 37 C.F.R. 1.131.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin W. Lee whose telephone number is 571-270-1346. The examiner can normally be reached on Mon - Fri (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. W. L./

Examiner, Art Unit 3714

/Ronald Laneau/  
Supervisory Patent Examiner, Art Unit 3714  
06/06/08